IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3048 OF 2004

Shri Dinesh C. Gundiya @ Godiya ... Petitioner

v/s

Ramkishore B. Verma and anr. ... Respondents

Mr R.B. Sonwadkar for Petitioner.

None for Respondents.

CORAM : D.K. DESHMUKH J.

DATE : 15TH JUNE 2005.

P.C. :-

1. By the impugned order, the Court has refused to condone the delay of about five months in making an application for condonation of delay for restoration of an application which was for restoration of the suit. The petitioner is a defendant and the suit was decreed on 27th October 1999. On 26th November 1999, he applied for setting aside of the ex-parte decree. That application was dismissed in default on 20th July 2002. An application for restoration of that application was made on 4th December 2002. The reason that was given for delay was that he was not aware that his application has been dismissed because he did not know that the case was in the Court of Civil Judge, Junior Division, Thane and therefore, he remained absent. The Court has found that this reason which is given is false. It is pointed out by the Court that because the Presiding Officer of the Court - Civil Judge, S.D. was promoted, the entire file of that Court was transferred to Civil Judge, J.D. Therefore, had the petitioner gone to the Court of Civil Judge, S.D., Thane on the date on which his matter was fixed before the Court, he would have come to know that his matter has been transferred alongwith all other mattes to the Court of Civil Judge, J.D., Thane. Thus,

the Court on finding that the reason given is false has refused to condone delay. In my opinion, the approach adopted by the Court is perfectly right. If delay is condoned on a false reason given by the litigant, then it will encourage litigants to give false reasons for getting the delay condoned. I find that the impugned order does not result in any failure of justice.

Petition is rejected.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.